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Attorney for Plaintiff,

BIANCA MCCALL

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BIANCA MCCALL, an individual;)
Plaintiff,)

Case No. 2:11-cv-01643-GMN-RJJ

vs.)

UNIVERSITY OF NEVADA SCHOOL OF)
MEDICINE, INTEGRATED CLINICAL)
SERVICES, a Nevada Corporation, doing business)
As MOJAVE ADULT CHILD AND FAMILY)
SERVICES; DOES 1 through 10 inclusive; ROES)
CORPORATIONS/ENTITIES 1 through 10)
inclusive,)
Defendants.)

**EMERGENCY MOTION FOR
EXTENSION OF TIME TO FILE
OPPOSITION TO DEFENDANT'S
MOTION TO STRIKE**

AND ORDER

Plaintiff respectfully submits this Emergency Motion to Extend Time to file her Opposition to Defendant's Motion to Strike. Plaintiff files this Motion on an emergency basis and in good faith because of an inadvertent mistake concerning the deadline in which to file the opposition. Plaintiff moves the Court to extend the deadline to file her opposition to Defendant's Motion to Strike to January 2, 2012.

...

...

1 This Motion is based on the pleadings and papers on file, the attached Affidavit of Counsel, the
2 attached Points and Authorities and any oral argument the Court may entertain.

3 DATED this 24th day of December, 2011.

4
5 RESPECTFULLY SUBMITTED BY:
6 ESTEBAN-TRINIDAD LAW, P.C.

7 
8 Amy M. Rose (Nevada Bar No. 12081)
9 4315 North Rancho Drive, Suite 110
10 Las Vegas, Nevada 89130
11 Telephone: (702) 736-5297
12 Fax: (702) 736-5299
13 Attorney for Plaintiff

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I.**
16 **INTRODUCTION**

17 This Emergency Motion is based on Local Rules (LR) 6-1. Plaintiff files this Motion on an
18 emergency basis and in good faith because of an inadvertent mistake concerning the deadline in which to
19 file the opposition. On December 9, 2011, Defendant's filed its Opposition to Plaintiff's Motion to Strike
20 and in the same document, filed its separate Motion to Strike. See Exhibit 1: PACER Printout. However,
21 Defendant's counsel did not file the documents as two (2) separate filings. Therefore, Plaintiff's counsel
22 did not receive notification of the separate deadlines until December 12, 2011. See Exhibit 2: PACER
23 Printout.

24 However, there was an oversight on part of Plaintiff's counsel due to the holiday season
25 concerning the deadline to file the Opposition to Defendant's Motion to Strike. See Affidavit of Amy M.
26 Rose. The oversight was discovered on December 29, 2011 upon Plaintiff's counsel's return to the office
27

1 from the firm's holiday break.¹

2 **II.**

3 **GOOD CAUSE FOR PLAINTIFF'S REQUESTED EXTENSION**

4 Under the Rules, a request can be made and granted after the expiration of the specified time
5 period if the moving party can demonstrate that the failure to act was the result of excusable neglect.
6 See LR 6-1. Plaintiff's counsel's oversight was excusable neglect.

7 **PLAINTIFF'S EFFORTS TO CONFER WITH DEFENDANT**

8 On December 29, 2011, immediately after discovery of the inadvertent mistake, Plaintiff's
9 counsel, Ms. Rose, made an effort to personally confer and request for an extension of time to oppose
10 Defendant's Motion to Strike, which was the preferred approach. See Rose Aff. However, Ms. Rose
11 could only leave a message. Upon information and belief, Defendant's counsel is not in the office due to
12 the holiday season. See Exhibit 3: University of Nevada School of Medicine Events Calendar. Ms. Rose
13 also emailed Defendant's counsel with the request. See Exhibit 4: Email from Amy M. Rose. The
14 Affidavit of Plaintiff's counsel attached hereto acts as certification of the attempt to confer with
15 Defendant's counsel.
16

17 **NO PREJUDICE TO DEFENDANT BY PLAINTIFF'S REQUESTED EXTENSION**

18 Defendant will not be prejudiced by Plaintiff's requested extension as Defendant may still have
19 the proscribed period of time to reply to Plaintiff's opposition.
20

21 **III.**

22 **PRIOR EXTENSIONS (LR 6-1)**

23 This is Plaintiff's first request for extension to file her opposition to Defendant's Motion to
24 Strike.

25 ¹ It is common practice for Plaintiff's counsel to close the firm for the last week of each year to
26 allow their staff to spend the holiday season with their families. See Aff. of Rose.

1 Plaintiff respectfully requests that this Court extend the deadline to file her opposition to
2 Defendant's Motion.

3 **IV.**
4 **CONCLUSION**

5 For the reasons set forth above, this Court should grant Plaintiff's Emergency Motion as Plaintiff's
6 failure to file the Opposition in a timely fashion was a result of excusable neglect.

7 **DATED** this 21st day of December, 2011.

8 **ESTEBAN-TRINIDAD LAW, P.C.**

9
10 BY: 

11 **AMY M. ROSE**

12 Nevada Bar No. 12081

13 4315 N. Rancho Dr., Ste 110

14 Las Vegas, Nevada 89130

15 Tel: (702) 736-5297

16 Fax: (702) 736-5299

Attorney for Plaintiff

17
18 **HAVING READ** the foregoing Motion and good cause appearing therefore,

19 **IT IS SO ORDERED** this 3rd day of January, 2012.

20
21 
22 _____
23 Gloria M. Navarro
24 United States District Judge
25
26
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